

Remarks

In the Final Office Action, the Examiner noted that claims 1, 3, 6-9 and 11-23, 25-33 and 35 are pending in the application; claims 1, 3, 7-9 and 11-23, 25-33 and 35 are rejected; and that claim 6 is objected to. By this amendment, claim 1 has been amended. Thus, claims 1, 3, 6-9, 11-23, 25-33 and 35 are pending in the application. No new subject matter has been inserted through these amendments. All of the amendments are fully supported by the specification. Specifically, claim 1 has been amended to delete "lecithins." The Examiner's rejections are respectfully traversed below.

Rejection Under 35 U.S.C. § 103(a)

Claims 1, 3, 4, (claim 4 is already canceled as noted above) 7-9, 11-23, 25-33 and 35 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Talton (US 6,406,745).

Specifically, in maintaining the rejection, the Examiner has cited Talton as a new reference and alleges that "Talton discloses composition comprising particles, phosphatidylcholine zwitterion, morphine, EUDRAGIT, HPMC." More specifically, the Examiner alleges that Talton's composition contains lecithin. However, as noted above, claim 1 has been amended to delete "lecithins," obviating this rejection. Accordingly, withdrawal of rejection as to claims 1, 3, 7-9, 11-23, 25-33 and 35 is respectfully requested.

Claim Objections

Claim 6 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As noted above, claim 1 has been amended to recite only the generic species of betaines including "N-alkylbetaines, C-alkylbetaines, N-alkylamidobetaines and N-alkylglycines". As admitted by the Examiner, "[T]he cocamidopropylbetaine zwitterionic surfactant is a species of betaines and that specie is not taught in the prior art," see Final

Office Action of December 15, 2006, page 3, paragraph 3. Furthermore, claim 6 is objected to as being dependent upon the rejected base claim. However, as noted above, claim 1, as amended, is in condition for allowance, and therefore, it is submitted that dependent claims 3, 6-9, 11-23, 25-33 and 35 are also in condition for allowance, such an action is earnestly requested.

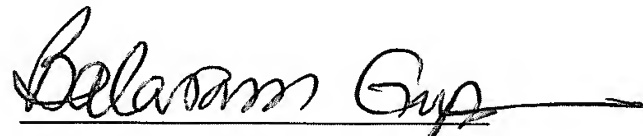
Conclusions

In view of the above Remarks, it is respectfully submitted that claims 1, 3, 6-9, 11-23, 25-33 and 35 are now in condition for allowance and the early issuance of this case is respectfully requested. In the event the Examiner wishes to contact the undersigned regarding any matter, please call (collect if necessary) the telephone number listed below.

As noted above, Applicants concurrently submit herewith a Request for Continued Examination. Applicants request the Commissioner to charge these fees and all other fees that are due to this submission to Deposit Account No. **18-1982** for sanofi-aventis, US LLC, Bridgewater, NJ. Please credit any overpayment to Deposit Account No. **18-1982**.

Respectfully submitted,

March 13, 2007



Balaram Gupta, Ph. D., J. D.

Registration No. 40,009

Attorney for Applicants

sanofi-aventis U.S. LLC
US Patent Operations
Route #202-206 / P.O. Box 6800
MAIL CODE: BWD-303A
Bridgewater, NJ 08807-0800
Telephone: 908-231-3364
Telefax: 908-231-2626